IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1099 OF 2005
IN
SUIT NO.1076 OF 2005

Smt. Jigishaben B. Sanghvi & Ors. ...Plaintiffs

Versus

State Bank of Saurashtra & Ors. ...Defendants

Mr. Shailesh Shah, Advocate, with Mr. Vinod Thakkar, for Plaintiffs.

Ms. Madhu Rai, Advocate, i/b. M/s. Negandhi Shah & Himayatullah, for Defendant No.1.

CORAM : S.J. VAZIFDAR, J.
DATED : 22ND AUGUST, 2006

P.C. :

The Plaintiff claims to be a co-owner of the suit property allegedly mortgage in favour of the Defendant.

2. The Defendant has adopted proceedings before the Debt Recovery Tribunal and obtained a Recovery Certificate. The Defendant has also obtained orders for enforcement of the mortgage.

3. The Plaintiff herein has filed an application before the DRT, being RP No.1872 in Original

Application No.212/2001, challenging the attachment pursuant to the Recovery Certificate on the ground that the mortgage cannot be enforced atleast in so far as the Plaintiff's rights and interests in the mortgage property are concerned. That application is pending.

4. Pending the aforesaid application taken out by the Plaintiff before the DRT, the Defendant adopted proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

5. No notice of either the proceedings before the DRT or the proceedings under the Securitisation Act have been given to the Plaintiff.

6. At this stage it is not necessary to consider the merits of the matter in view of the pendency of the Plaintiff's application before the DRT. If the Plaintiff succeeds therein the proceedings under the Securitisation Act would automatically be effected. In the circumstances, the Notice of Motion is disposed of by the following order :-

(i) Pending the hearing and final disposal

of the RP No.1872 in Original Application No.212/2001 and any final orders therein and for a period of four weeks thereafter, no further proceedings under the Securitisation Act shall be taken.

(ii) The Notice of Motion is accordingly disposed of.